

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

Charles Gregory Price,)
)
Plaintiff,) C.A. No.: 6:10-cv-00991-JMC
)
v.) **OPINION AND ORDER**
)
Woodsmart Solutions, Inc., et al.)
)
Defendants.)
)

Plaintiff Charles Gregory Price is proceeding in this matter *pro se*. On April 21, 2010, Defendants Bluwood USA, Inc. and Adolph Morando (“Defendants”) filed Motions to Dismiss for Lack of Personal Jurisdiction. [Docs. # 7 and 8]. On July 22, 2010, the Magistrate Judge filed a Report and Recommendation [Doc. # 35] in which she recommended that Defendants’ Motions to Dismiss for Lack of Personal Jurisdiction [Docs. # 7 and 8] be denied without prejudice and with leave to renew them at a later time because the parties were neither represented by attorneys nor did they “appear active.” On September 9, 2010, Defendants filed a renewed Motion to Dismiss for Lack of Personal Jurisdiction. [Doc. # 42]. On September 10, 2010, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), Plaintiff was advised of the summary dismissal procedure and the possible consequences if he failed to adequately respond. Despite this explanation, Plaintiff did not respond to the motion. As the Plaintiff is proceeding *pro se*, the Magistrate Judge filed a second order on October 26, 2010, giving Plaintiff through November 17, 2010, to file his response to the Motion to Dismiss for Lack of Personal Jurisdiction. Plaintiff was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. Plaintiff elected not to respond.

The Magistrate Judge's Report and Recommendation [Doc. # 50], filed on November 30, 2010, recommends that this action be dismissed with prejudice for lack of prosecution and for failure to comply with this court's orders. The Report and Recommendation sets forth in detail the relevant facts and legal standards on this matter, and the court incorporates the Magistrate Judge's recommendation herein without a recitation.

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Plaintiff was advised of his right to file objections to the Report and Recommendation. [Doc. # 50-1]. However, Plaintiff filed no objections to the Report and Recommendation.

In the absence of objections to the Magistrate Judge's Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report and Recommendation results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th

Cir. 1984).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation [Doc. # 50] and incorporates it herein. In addition, the court renders as **MOOT** the Magistrate Judge's Report and Recommendation [Doc. # 35] for the reasons given above. It is therefore **ORDERED** that this action is **DISMISSED** *with* prejudice for lack of prosecution and for failure to comply with this court's orders under Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1992). Therefore, Defendants' Motions to Dismiss for Lack of Personal Jurisdiction [Docs. # 7, 8, and 42] are **MOOT**.

IT IS SO ORDERED.

s/ J. Michelle Childs
United States District Judge

Greenville, South Carolina
January 5, 2010